

WHY IS THE U.S. AFRAID OF THE INTERNATIONAL CRIMINAL COURT?

BY

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USAWC STRATEGY RESEARCH PROJECT

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ABSTRACT

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This paper will examine the possible implications of the International Criminal Court. The International Criminal Court established a permanent Court in the Hague to investigate and prosecute individuals, not states, who commit the crimes of genocide, war crimes, and crimes against humanity (the crime of aggression will be added possibly in 2009 if and when a definition is agreed upon). The UN states that the establishment of such a court will serve as a deterrent to individuals to such crimes in the future. The UN argues that individuals almost never are held accountable for their actions no matter how horrific the crimes may be. The concept behind the establishment of the ICC is certainly valid, individuals must be held accountable and punished for the crimes they commit and a permanent international court does have its merits. The statute, in its current form, is a document that has far reaching implications for the United States and the members of its Armed Forces. Even with the concerns of the United States, I feel that the US should be a signatory to this court.

WHY IS THE U.S. AFRAID OF THE INTERNATIONAL CRIMINAL COURT?

This promises, at last, to supply what has so long been the missing link in the international legal system, a permanent court to judge the crimes of gravest concern to the international community as a whole - genocide, crimes against humanity and war crimes.

—Kofi Annan,
Former United Nations Secretary-General

On May 6, 2002, John Bolton, undersecretary of State for Arms Control and International Security, sent a letter to United Nations (UN) Secretary General Kofi Annan. In the short letter, undersecretary Bolton wrote to inform Secretary General Annan that the United States (US) did not intend to become a party to the Rome Statute of the International Criminal Court. The letter also stated the US would have no legal obligations of any sort to the Court at any time in the future.¹

On the very same day, Pierre-Richard Prosper, US Ambassador for War Crimes Issues, addressed the foreign press in Washington, DC. Ambassador Prosper stated that President Bush is committed to combating the crimes of genocide, crimes against humanity, and war crimes, and the US is committed to play a leadership role in the world to address these abuses should they occur.² However, the bottom line for the US position toward the International Criminal Court set by the Bush administration was to provide absolutely no support. Ambassador Prosper further stated that the International Criminal Court should not expect any support from the US government and that if any prosecutor of the International Criminal Court should seek to build a case against any individual, the US has divorced itself from the process.³

Why did the establishment of the International Criminal Court cause the Bush administration to object so fiercely to this organization? The International Criminal

Court is the first permanent organization of its kind with the power to exercise its jurisdiction over persons for the most serious crimes of international concern and was established to be complementary, not usurp, to national judicial institutions.⁴

This paper will address why the Rome Statute of the International Criminal court was enacted. I will examine the arguments that caused the Bush administration to cancel support of the Rome Statute. I will offer arguments that will support US reversal of the Bush administration's current position. Throughout this paper, by way of a hypothetical tactical scenario, I will interject possible implications for the US war fighter (italicized sections).

It is the 25th of May, 2015. You are the Commander of the 3rd Stryker Brigade Combat Team. Your unit is in an assembly area in Cameroon near the border with Nigeria. The defense forces of Nigeria are in position to possibly launch attacks across the Cameroon border to seize the oil rich Bakassi peninsula. Your unit is in Cameroon on the invitation of the Cameroon government and under the auspices of a UN Security Council resolution to deter Nigerian aggression and to enforce international borders. The US is part of an international coalition with representatives from the African Union and NATO. An African Commander leads the coalition.

What is the Rome Statute of the International Criminal Court and why was it Enacted?

"For nearly half a century – almost as long as the UN has been in existence – the General Assembly has recognized the need to establish such a court to prosecute and punish persons responsible for crimes such as genocide. Many thought ...that the horrors of the Second World War – the camps, the cruelty, the exterminations, the Holocaust – could never happen again. And yet they have. In Cambodia, in Bosnia

and Herzegovina, in Rwanda. Our time – this decade even – has shown us that man's capacity for evil knows no limits. Genocide... is now a word of our time, too, a heinous reality that calls for a historic response." --Kofi Annan, Former UN Secretary-General⁵

One of the primary reasons for the establishment of an International Criminal Court is that, as Secretary General Annan suggests, the assumption that the potential prosecution of war crime perpetrators will actually, in fact, deter war crimes from taking place. This is not a new concept. For more than fifty years since the Nuremberg and Tokyo trials at the end of the Second World War, the UN General Assembly recognized the need for a permanent international court as necessary to try individuals, not states, for the most serious offenses of international concern. Namely, the crimes of genocide, war crimes, and crimes against humanity.

According to the UN, the twentieth century saw the worst violence in the history of mankind. The UN likes to remind us that most of the victims of the twentieth century have been forgotten and very few of those who committed atrocities have faced any kind of judgment. In spite of rules and laws defining and forbidding war crimes, crimes against humanity, and genocide, plus all the treaties, conventions, and protocols that ban everything from the use of poison gas to the use of chemical weapons, what is missing is the most important piece. That missing piece of the pie is an international system that will enforce these treaties, conventions, etc., and will punish those individuals who are criminally responsible for these violations.⁶

During the past fifty years there have been several attempts to establish just such a court. The catalysts that resurrected the formation of a permanent court were the horrific events in the former Yugoslavia and Rwanda. Ad hoc tribunals were established

by the UN Security Council to investigate and punish those responsible for any crimes. A permanent court, it is said, would be able to act more quickly than an ad hoc tribunal and would serve as a stronger deterrent.⁷

The International Criminal Court will not be a remedy for all human rights violations, but it will provide a forum to prosecute the most heinous international crimes when national judicial systems are unable or unwilling to do so. The wisdom is that the court will serve to deter gross human rights violators by confronting them with the threat of prosecution and punishment. The court will provide redress to victims where national courts cannot. The court will strengthen peace and end the cycle of violence by offering justice as an alternative to the principle of revenge.⁸ The court, unlike the ad hoc tribunals of the former Yugoslavia and Rwanda where questions were raised regarding selective justice and possible political motivations, the legitimacy of a permanent court that is created by treaty will therefore not be open to challenge. The court will have the same mandate wherever the crimes under its jurisdiction are committed.⁹

The Nuremberg trials established that the international community can and will hold individuals, not states, personally accountable for committed heinous crimes. Robert Jackson, the lead prosecutor at the Nuremberg trials and US Supreme Court Justice said that “the idea that a state, anymore than a corporation, commits crimes is a fiction. Crimes always are committed only by persons...it is quite intolerable to let such a legalism become the basis of personal immunity. The Nuremberg charter recognized that one who has committed a criminal act may not take refuge in superior orders nor in the doctrine that his crimes were acts of state.”¹⁰ These words of Justice Jackson will form the backbone of the Rome Statute of the International Criminal Court. Crimes are

committed by individuals, not states, and individuals will be prosecuted if they commit crimes under the jurisdiction of the Rome Statute of the International Criminal Court.

The crimes that are under the jurisdiction of the court are genocide, war crimes, and crimes against humanity. The nebulous crime of aggression will be added when states that are party to the statute can agree as to the definition of what a crime of aggression is. This is scheduled to occur in 2009.¹¹

There are three ways under which the court can exercise its jurisdiction. The first is when any state party to the statute brings to the prosecutor's attention a situation in which crimes within the Court's jurisdiction appears to have been committed and requests an investigation. The second is when the UN Security Council refers to the court a situation in which crimes appear to have been committed or when the Security Council, under Chapter VII of the UN charter, determines a situation represents a threat to peace or a breach of the peace. In both of these cases, the prosecutor can decline to proceed with an investigation if he or she determines that there is no reasonable basis to do so. And the third way is the prosecutor may decide to initiate an investigation based on his/her own motion provided that a three-judge panel of the court's pre-trial chamber approve.¹²

US Concern with International Criminal Court

On 15 June 2018 reports begin to filter up through various news organizations of a massacre in which the people of the small village of Muato, Nigeria were killed. 3SBCT current location is inside of Cameroon – Muato is West of 3SBCT's location and about halfway between Ugep Ekok and Ekang in Nigeria. The reports in the media say witnesses saw US soldiers drive into the village at night an open fire on the people and

houses in the small village. A Nigerian News outlet shows video of the aftermath which is quickly picked up by the international media. The Nigerian government immediately blames the US military and calls for swift justice.

The International Criminal Court officially came into existence on July 1, 2002 after the sixtieth state officially ratified the Rome Statute of the International Criminal Court.¹³ After this date anyone committing war crimes, crimes against humanity, and genocide is liable for prosecution by the newly established court.¹⁴

Six weeks prior to this date, in anticipation of the official opening of the court, John Bolton notified the Secretary General that the US would not be bound by the jurisdiction of the Court. In the summer of 2002, George Bush signed legislation that limited US government support and assistance to the International Criminal Court. Legislation also curtailed military assistance to many countries that ratified the Rome Statute and most controversial among the US's European allies, authorized the President to use all means necessary and appropriate to bring about the release of US and allied personnel who are detained or tried by the Court.¹⁵

Why is the Rome Statute of the International Criminal Court so controversial to the current Bush Presidential Administration? After WWII and the Nuremberg trials the international community recognized the need to establish a formal court to hold individuals accountable for their actions. The US often led these efforts to possibly establish such a court. By the early 1950's, much work was undertaken, but the real efforts were stalled by the onset of the Cold War.¹⁶ As the Cold War came to a close in 1989, Trinidad and Tobago, plagued by rampant transnational crime brought on by the illegal drug trade, introduced a resolution to the UN General Assembly directing the

International Law Commission to consider the subject of an international criminal court.¹⁷

While the foundations for an International Criminal Court were laid in the early 1990's, the international situation worsened with the wars in Yugoslavia and Rwanda. The early framework under consideration was consistent with the Clinton administration's overall attitude with respect to human rights and human rights abuses and the administrations support to the ad hoc war tribunals established to address war crimes in Yugoslavia and Rwanda.¹⁸ After many rounds of negotiations and drafts, the Preparatory Committee (established in 1995 at the recommendation of the UN General Assembly)¹⁹ met for a final time in Rome, Italy between March and July of 1998. Finally on the 17th of July 1998, with the participation of officials of 160 states, 33 intergovernmental organizations, and a coalition of 236 non-governmental organizations, the Rome Statute of the International Criminal Court was adopted. 120 states voted for adoption of the Statute, 7 states voted against. Joining the US in the opposing minority were China, Iraq, Israel, Libya, Qatar, and Yemen.²⁰

President Clinton stated, at the time, that although the US voted against the treaty, the US would remain an international leader dedicated to ensure the individuals who commit war crimes will be brought to justice.²¹ President Clinton while acknowledging the flaws in the treaty, nonetheless signed the treaty on 31 December 2000 and stated that he would not forward the treaty to the Senate for Advice and Consent for Ratification and would recommend to his incoming successor to do the same.²² These actions doomed US participation in the court. As of mid-October 2007, one hundred and five countries have ratified and are party to the Rome Statute.²³

According to the Republican Policy Committee of the US Senate, the current administration objects to the Court because it is built on a flawed foundation.²⁴ This flawed foundation has its roots in five issues. The first issue of US concern is jurisdiction over nationals of non-party states. Under the terms and conditions of the treaty, the treaty purports to subject its jurisdiction all citizens of non-party nations.²⁵ Opponents of the statute say this is troubling for US service members participating in peacekeeping operations in the territory of a state who is a member of the court.²⁶ The US intended to counter this provision through the use of a clause in the Rome Statute, Article 98 bilateral agreement, which I will discuss later.

The second issue is politicized prosecution. The current administration believes the flaws in the statute allow it to be used by member states to bring politically motivated charges against US citizens.²⁷ The list of potential victims runs from the lowest ranked soldiers to America's senior political leaders. This belief is due to the prominent leadership role American officials take in the international political arena.²⁸ It is argued that as the world's sole superpower, the US is a vulnerable target for manipulation by International Criminal Court member states. These states have little to fear from politicization in comparison to the US burdened in its international commitments.²⁹

The third US objection to the current statute is related to politicized prosecution: it is what the US calls the "unaccountable prosecutor."³⁰ David Schaffer, the one time Ambassador at Large for War Crimes, argued that in the US eyes, the Court Prosecutor is accountable to no one. He stated the US position in this way, "states are accountable to their politics; the members of the Security Council are accountable to theirs. There

are no checks and balances. Who would this independent Prosecutor be accountable to?³¹

The US belief that the role of the UN Security Council is usurped by the International Criminal Court is the fourth concern of the US. The UN Charter charges the Security Council with primary responsibility for the maintenance of international peace and security.³² As in the previous US concern of politicized prosecutions, who is the International Criminal Court prosecutor accountable to? The second issue of concern in relationship to the perceived usurpation of the Security Council is the International Criminal Court statute gives the Court the authority to define and punish the crime of aggression.³³ In the current statute, the crime of aggression is yet to be defined. The member states will gather in 2009 to decide upon the final definition. The US position is that in the UN Charter, the crime of aggression is already under the purview of the UN Security Council. Although the Security Council has this responsibility, aggression has yet to be defined in the charter.³⁴

The fifth and final main objection to the International Criminal Court, as identified in the US policy regarding the Court, concerns perceived lack of due process guarantees.³⁵ This is the weakest of the five concerns. The major difference between the due process guarantees afforded by the US constitution and those contained in the International Criminal Court, as I can see, is the right to a trial by jury. Under the current statute, trials are conducted before a panel of judges, not a jury. According to the provisions of the statute defendants are guaranteed the right to have timely notice of the charges, the presumption of innocence, the right against self incrimination, the right to counsel and an interpreter, the right to a speedy trial, the right to cross examine

witnesses, the right to disclosure, and the right not to bear any burden of proof but rather require the prosecution to prove guilty beyond a reasonable doubt.³⁶ This list of rights is not exclusive, but only highlights some of the protections afforded under the statute. Proponents of the statute point out two examples where US citizens are not afforded constitutional protection: the first is when the US turns over citizens for prosecution by foreign government who do not provide similar rights guaranteed by the US Constitution, the second is the case of court-martial in the armed services where a judge, not a jury, can rule over a trial.³⁷

A situation reminiscent of the tragedy that occurred in Mahmadia Iraq in the spring of 2006 where four American soldiers raped and killed a fourteen year old Iraqi girl and her family, rises again. Two soldiers in the 3SBCT have been charged with raping and killing a Fox News correspondent who was embedded with your unit. The correspondent was a native of Canada and there were widespread demonstrations to the Canadian prosecutor serving on the International Criminal Court for her to open an investigation against the US Soldiers and for the US to turn over the soldiers to the court for prosecution.

Besides this unfortunate situation, your unit was cleared in the Muato massacre. Two weeks after the killings were uncovered a missing news crew from the BBC came forward with videotape and an account of what really happened in Muato. On the day of the massacre, a BBC news team crossed the border illegally into Nigeria from Cameroon. Late in the evening the Land Rover they were traveling in broke down outside of Muato. Sometime in the night, the two man crew heard gunshots and explosions and snuck into the village and witnessed the carnage. The evidence filmed

by the crew shows a Nigerian Presidential Guard Company carrying US-type weapons carrying out the destruction. It took the news team almost two weeks to exfiltrate on foot back into Cameroon. The Nigerian government denies its troops carried out this incident.

The Case for US Support

America – when America does not engage in these international institutions, when we show disrespect for international agreements, it makes it extraordinarily difficult when we need the international community to rally around us to get them there. We should be the natural leader in all of these areas and certainly we should be a member of the International Criminal Court. You know, we didn't used to be the country of Guantanamo and Abu Gharib. We were the real light for the rest of the world, and America needs to be that light again. And we can be that light again.³⁸

The second half of the twentieth century is filled with incredible examples of individuals committing the most heinous crimes against civilian populations. According to the UN, the second half of the twentieth century produced more than 250 conflicts; more than 86 million civilians were killed; and over 170 million people were stripped of their human rights.³⁹ Except in very few cases, few individuals were prosecuted and brought to justice for their part in committing these atrocities. The examples are many; Cambodia, Bosnia, Rwanda, and Angola are just a few. If we wish to eliminate this pattern of barbarity, an International Criminal Court supported by the US can go along way to ensure that those individuals who commit the most heinous acts are brought to justice.

Establishing a new court or tribunal each time the world community decides to act is not the road to be taken, as was the case in Bosnia and Rwanda. The other road not to be taken is for the US not to support future court proceedings. When the US

withdrew from the court in 2002, Ambassador William Prosper, the US Ambassador for War Crimes, as I wrote earlier, stated the US had divorced itself from the International Criminal Court process and would provide absolutely no support to the court.⁴⁰ What message does this send to the rest of the world? Is the US willing to let those who commit the crimes of genocide, crimes against humanity, and war crimes walk free, immune from prosecution?

The US must face the reality of the International Criminal Court whether or not the US participates. The court can only be stronger with US participation. The US has a long and proud tradition of providing leadership to bring justice to those who do not observe the rule of law. The US was the driving force at Nuremberg against those who perpetrated the holocaust; the US was instrumental in supporting the proceedings at the International War Crimes Tribunal for the former Yugoslavia; and the US played an important role in establishing the War Crimes Tribunal for Rwanda.⁴¹ US leadership was instrumental in ensuring those responsible in Yugoslavia and Rwanda were brought to justice.

The International Criminal Court is up and running as an international institution without US support. Since the ratification of the court in 2002, the prosecutor of the International Criminal Court has opened investigations on four situations; the situation in the Democratic Republic of the Congo; the situation in Uganda; the situation in the Central African Republic; and the situation in Darfur, Sudan.⁴² In the six years since the court came about, I see no instances of politically motivated investigations or an overzealous prosecutor. These are truly worthy situations that demand further investigation. The fact of the matter in the initiation of these investigations is the

situations were not initiated by an out of control prosecutor. These situations were initiated by three state parties to the International Criminal Court who referred charges to the Office of the Prosecutor and the UN Security Council referred one situation to the prosecutor.⁴³ After conducting detailed analysis, in accordance with the International Criminal Court Statute and the Rules of Procedure and Evidence, the prosecutor decided there was enough evidence to open investigation into these four situations listed above and so far, the Pre-Trial Chamber has issued eight arrest warrants at the request of the Prosecutor.⁴⁴

The four situations referred to the court are indeed worthy of US participation. By opposing the International Criminal Court, the US lends credibility to rogue leaders like those in the four situations the Court is investigating.⁴⁵ Kenneth Roth writes that as sure as the beacon that shines from the Statue of Liberty, the world looks to the United States to uphold democracy, human rights, and the rule of law. He goes on to state that unanswered atrocities undermine the values on which the US was founded and the US needs the International Criminal Court because the US depends on the vision of humanity and values of justice and law that it will defend. He also believes the court will uphold our fundamental notion that criminals will be held responsible for their actions and that victims will see their attackers brought to justice.⁴⁶

US support for the long-term success of the International Criminal Court is critical. Support the US can bring to the process will come in many forms. First and foremost is the funding of the court. America is the most prosperous nation in the world and the US contributes roughly twenty five percent of the UN's current operational budget.⁴⁷ Contributing an equivalent percentage amount to the court will go along way to its long-

term success of the court. As it stands now, the court is funded from three sources; contributions from States parties, voluntary contributions, and from the UN, as approved by the General Assembly but not including US UN dues.⁴⁸ A second critical piece that the US can provide to the Court is intelligence. American intelligence is crucial, as the experience of the Tribunals for Yugoslavia and Rwanda has shown. Without the information supplied by American intelligence, the Tribunal for Yugoslavia would not have had sufficient evidence to indict Slobodan Milosevic for war crimes.⁴⁹ The third aspect that the US can bring to ensure success to the court is judicial and prosecutorial personnel. No other nation in the world has the quality and number of lawyers and judges that the US has, nor does any state have the number and quality of personnel that could serve as prosecutors and investigators in the service of the court.

Since the withdrawal of support to the International Criminal Court in 2002, the US has taken steps to both protect US citizens from possible prosecution by the International Criminal Court and steps to punish those states that support the International Criminal Court. In a 2006 New York Times article, General Bantz J. Craddock, then the Commander of US Southern Command, spoke of the unintended consequences these steps have had on US relations with Latin American countries. He said "... when I go through the region, the fact is that the foreign military financing is gone, IMET funding (International Military Education Training) is gone and other nations are moving in... The Peoples Republic of China has made many offers."⁵⁰ What steps did the US take that could have this effect? One of the first steps the US took after withdrawing from the International Criminal Court was to pass the so-called "Hague Invasion Act" in July 2002.⁵¹ The "Hague Invasion Act" is what the press called the

American Service-Members Protection Act. The ASPA solidified the US offensive against the International Criminal Court by including the use of military force to free members of the US and certain other persons detained or imprisoned by or on behalf of the International Criminal Court.⁵² The ASPA also effectively withdrew most military assistance and funding from some non-NATO states parties who are party to the International Criminal Court. The ASPA also deemed that any US peacekeeping operation must exempt US service members from criminal prosecution by the International Criminal Court and prohibits US participation unless there is a presidential waiver.⁵³

What started out as an attempt to protect US service members, has had second and third order effects that will, in the long run, have a negative effect on US service members and on US foreign relations. As mentioned earlier, any non-NATO state that is party to the International Criminal Court had military assistance and funding cut off. A provision, Article 98, in the Statute allows nations to sign individual bilateral agreements that pledge not to turn over American service members and citizens to the International Criminal Court without US government approval.⁵⁴ Since 2002, the US has aggressively pursued signing bilateral immunity agreements with International Criminal Court member states. As of October 2007, the US has entered into agreements with fifty two of the one hundred five International Criminal Court member states.⁵⁵ Most states that have not entered into agreements with the US were, up until recently, cut off from military assistance funds and economic support funds.

As a result of funding and assistance cuts, Pentagon and senior military commanders say the results have undermined American efforts to combat terrorist

threats in Africa and counter expanding Chinese influence.⁵⁶ These are the same concerns echoed by General Bantz Craddock in the US Southern Command area of responsibility. The unintended consequences of the ASPA has frustrated US counter-terrorism efforts in Africa and angered military officials who say the sanctions were short-sighted.⁵⁷ In a 2006 Congressional Research Report, some members of the current administration and Congress expressed concern over the unintended effects of these cuts in Latin America. The report states that because of the sanctions the US is missing key opportunities to engage militaries from the effected countries and this could lead to a loss of US diplomatic influence in the region. Sanctioned countries are looking to Russia, China, and Venezuela to fill the void created by the sanctions.⁵⁸ Secretary of State, Condoleeza Rice, acknowledged in the report that invoking ASPA sanctions on key US military allies is “sort of like shooting ourselves in the foot.”⁵⁹

To try and undue some of the damage created by the ASPA sanctions, in late 2006, President Bush waived IMET aid restrictions to 21 International Criminal Court member states that have not signed Article 98 immunity waivers with the US.⁶⁰ Additionally, President Bush waived Economic Support Funds for 14 International Criminal Court member states, but the waiver did not restore Foreign Military Financing for any International Criminal Court member state that has not entered into a bilateral immunity agreement with the US. How can the US, as one pentagon official said, ask for a nations support in fighting terrorism while the US denies that country the money needed to train and equip its forces?⁶¹

With the US as a member state of the International Criminal Court, the court could be used to prosecute individuals detained by the US in the current Global War on

Terror. Acts of terrorism could be prosecuted under one of the headings on grave breaches contained in Article 8 of the Statute, namely willful killing, hostage taking, torture and inhumane treatment, willfully causing great suffering, unlawful transfer and deportation, extensive destruction of property, and unlawful confinement.⁶² Using the International Criminal Court as a venue to try those individuals the US now has in custody could provide legitimacy to a very controversial subject. In the court of world opinion, the US image can only improve if the International Criminal Court were used instead of the ever changing current process which has produced few trials and very little results. I can tell you from a personal perspective, I was selected to serve as a juror for the military tribunals at Guantanamo and for about eighteen months I was on a short string to report for duty. I was quite happy when I received notification that my potential services were no longer required.

The US should not fear US service members and citizens being whisked off in the night to face prosecution by the International Criminal Court because of the complementary nature of the court. The court was established to prosecute those individuals committing only the most barbaric of crimes, the crimes of genocide, war crimes, and crimes against humanity. The court was established to complement national courts for them to retain jurisdiction. The International Criminal Court will only act if the country is unwilling or unable to investigate or prosecute allegations of wrongdoing. A country is unwilling if it is clearly shielding an individual responsible for crimes or a country is unable if and when its legal system has collapsed.⁶³ I can think of no situation where the US would not open an investigation against an individual who is alleged to have committed any of the three crimes under the International Criminal

Court jurisdiction. This also ensures state sovereignty, because the International Criminal Court only assumes jurisdiction as a court of last resort. The integrity of the US judicial system has never been questioned, and there is no reason to believe the court will question the legitimacy or validity of the US judicial system in the future.⁶⁴

The conflict in Western Africa is over and 3SBCT has returned home to Fort Hood. You conducted an investigation into the allegations of serious misconduct by Soldiers in your command. Charges were referred and court martial proceedings will begin soon. The international court of opinion seems to agree that the US has taken the necessary steps to bring to justice those who were responsible in Cameroon.

After much work and international pressure, Cameroonian Military Officials have detained the individuals responsible for the massacre in Muato. The Nigerian government now denies the incident ever took place and is unwilling to open an investigation. Those detained will be turned over to the International Criminal Court for investigation and possible prosecution. The process works.

Conclusion

The US should re-examine its current policy and join in with the other 105 nations who are members of the International Criminal Court. As I quoted John Edwards previously, when the US shows disrespect for international agreements, it makes it difficult to enlist international support for our causes. Some of the steps taken by the current administration to weaken the effectiveness of the Court and protect US service members have produced unintended consequences. Consequences that are having a negative effect on the Global War on Terror. Public opinion supports US membership in the International Criminal Court where 76%⁶⁵ of the sampled American public in 2004

and 71%⁶⁶ in 2006 supported membership. Public opinion also supports using the International Criminal Court as a venue for putting international terrorists in US custody on trial.⁶⁷ John McCain, in rejecting the current administration policy regarding the International Criminal Court, says that he would like to see the US join the International Criminal Court.⁶⁸

Congressional Research Service reported in 2002 and again in 2006 that the US has enjoyed a long reputation for leadership in the struggle against impunity and the quest for universal human rights and the rule of law. There is concern that US non-participation in the International Criminal Court, and the actions taken to weaken the court, could cause the US to lose the moral high ground and our international influence worldwide.⁶⁹ Too late, the damage is done. But, if we ratify the Statute and reverse the sanctions taken, we can reclaim the moral high ground and our international influence. The US is the strongest and richest nation in the world, but we can be stronger if we back this strength and wealth with moral force. The US must be the future leader in this endeavor. It is not too late.

Endnotes

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